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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following bills were introduced in Lok Sabha on 4.3.99:—

BILL NO. 1 OF 1999

A Bill to provide for welfare measures to be undertaken by the Union and State Governments for the ragpicking and vagabond street children who subsist on collecting and selling waste material from garbage dumps and other places endangering their health and lives and for their rehabilitation through education, training, vocational education and guidance and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Ragpicking and other Vagabond Street Children (Rehabilitation and Welfare) Act, 1999.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases the Central Government;

(*b*) "child" means a boy or girl who is below the age of eighteen years;

(*c*) "prescribed" means prescribed by rules made under this Act;

(*d*) "ragpicking child" means a child who collects waste papers, plastic items, glass and metal wastes from garbage dumps, street and other places and sells his collection for his subsistence;

(*e*) "vagabond street child" means a child who wanders aimlessly in the streets and does not go to school due to inability of his parents to afford for his studies.

District wise register of ragpicking and vagabond street children.

3. (*1*) **The appropriate Government shall maintain a district-wise register of all ragpicking and vagabond street children.**

(*2*) The register shall be maintained in such manner and shall contain such information as may be prescribed.

Shelters for orphan ragpicker and vagabond children.

4. (*1*) **The appropriate Government shall establish such number of shelters as it may deem necessary for boarding and lodging of the orphan and homeless ragpickers and vagabond street children free of cost.**

(*2*) **The facilities in the shelters shall be such as may be prescribed.**

Financial assistance to the families of ragpicking children

5. (*1*) **The family of every ragpicking child which subsists on the earnings of such child shall be given financial assistance by the appropriate Government at such rate and in such manner as may be prescribed to enable such child to attend school for studies or training in vocation.**

(*2*) The financial assistance referred to in sub-section (*1*) shall not be given if the ragpicking child is not sent to school by his family.

Duty of parents to send ragpicking and vagabond street children to schools.

6. It shall be the duty of every parent, guardian or head of the family, or manager or in-charge of the shelters established under section 4 to send every ragpicking and vagabond street child to school for getting education or vocational training as per his calibre.

Schools and technical education institutes for ragpicking and vagabond street children.

7. (*1*) **The appropriate Government shall open sufficient number of schools and technical education institutes on the pattern of model schools and industrial training institutes, respectively, at appropriate places for imparting education and training free of cost to ragpicking and vagabond street children.**

(*2*) **The ragpicking and vagabond street children attending the school and technical education institutes referred to in sub-section (*1*) shall be provided with books, writing materials, clothes including uniform, mid-day meals and other relevant articles free of cost by the appropriate Government.**

Establishment of Ragpicking and Vagabond Street Children Welfare Fund.

8. (*1*) **With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established a Ragpicking and Vagabond Street Children Welfare Fund, moneys into which shall be given by the Central Government after due appropriation made by Parliament from time to time and also by the Government of the States in such proportions and in such manner as may be prescribed.**

(*2*) The Welfare Fund referred to in sub-section (*1*) shall be managed by the Central Government through the Governments of the States in such manner as may be prescribed.

Over-riding effect of the Act.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent contained therewith in any other law for the time being in force.

Act not to be in derogation of other laws.

10. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

11. The Central Government may, by Notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There are millions of children particularly in the urban areas of the country who subsist on ragpicking. They collect waste-papers, waste plastic material and metal scraps, etc. thrown by the households and traders in the dustbins or littered in the streets, roads, etc. and then sell their collections for few rupees to the *Kabadiwallahs* every day who thrive on their labour as these helpless children are paid lowly for their waste collections. Many of the ragpicking children do this job to support their poor families as they are unable to get any other means of livelihood for various reasons. Many of them are forced to do this job either by the compelling circumstances or by their alcohol addict or drug addict parents/guardians. A number of ragpicking children are orphans who subsist on this profession. These ragpickers work under pathetic and unhygienic conditions. They wake up early in the morning and rush to one dustbin to other dustbin full of garbage with dangerous virus. They collect the refuse from the stinking garbage dumps and contact dangerous diseases like TB, Hepatitis, Plague, respiratory diseases and even cancer. Undeterred, they carry on this job till they are eliminated from this cruel world. Many of them though talented remain illiterate and always remain hand to mouth. They do not even get two square meals and a pair of clothes to wear. They always live in abject poverty.

Similarly, there are vagabond street children who do nothing except roaming aimlessly. They belong to poor families who have no means to send them to schools. Many of the vagabonds have skill, productivity and ingenuity but they have no means to show their mettle to the world.

It is true that in a welfare State like ours the children must enjoy their childhood. They should get nutritious diet, good education and training and good atmosphere so that they may grow as responsible citizens. Since the families of the ragpicking children or such children themselves cannot afford the luxuries of good diet, education and training, the State must come forward for the welfare of these helpless children for their proper development. The Government should establish shelters for such children and open schools and training institutes for them wherein apart from free education and training they should be provided dress, books, writing material and other things free of cost so that their future is shaped well.

Hence this Bill.

NEW DELHI;
April 30, 1998.

T. SUBBARAMI REDDY

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 6-2/96-CW, dated 11 December, 1998 from Shrimati Maneka Gandhi, Minister of State of the Ministry of Social Justice and Empowerment to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Ragpicking and Vagabond Street Children (Rehabilitation and Welfare) Bill, 1999 by Dr. T. Subbarami Reddy, Member of Parliament (Lok Sabha), recommends under article 117(3) of the Constitution the consideration of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for maintenance of district-wise register of all ragpicking and vagabond street children. Clause 4 provides for the establishment of shelters for orphan ragpickers and vagabond street children. Clause 5 provides for the financial assistance to the families of ragpicking children. Clause 7 provides for the opening of schools and training institutes. Clause 8 provides for the establishment of Ragpicking and Vagabond Street Children Welfare Fund. As regards the expenditure involved in giving effect to the provisions of the Bill in the States, it shall be borne out of the Consolidated Funds of the respective States. However, in the case of Union territories, the expenditure shall be met out of the Consolidated Fund of India. The Central Government may also have to extend financial assistance to the State Governments for implementing the provisions of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees three hundred crore is likely to be involved as a recurring expenditure per annum.

A sum of rupees two hundred crore is also likely to be involved as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill which will relate to matters of detail only. The delegation of legislative power is, therefore, of normal character.

BILL NO. 106 OF 1998

A Bill to provide for the establishment of Welfare Board at the national and state levels for welfare of children and for matters connected therewith.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the National Child Welfare Board Act, 1998.

(*2*) It extends to the whole of India.

Definition.

2. In this Act, unless the context otherwise requires, "child" means a person who is under the age of eighteen years.

Establishment of National Child Welfare Board.

3. (*1*) **There shall be established by the Central Government a Board to be known as the "National Child Welfare Board" (hereinafter referred to as the "National Board"), which shall consist of a Chairman and four other members having special knowledge or practical experience in the field of education, medicine, sports, culture or social services.**

(*2*) It shall be the duty of the Board to enunciate the national policy for the development of children.

Establishment of State or Union territory Child Welfare Board.

4. There shall be established by every State Government or Union territory Administration a Board to be known as the "State or Union territory Child Welfare Board", as the case may be (hereinafter referred to as the "State Board" or "Union territory Board") which shall consist of a Chairman and such number of other members,

as the State Government or the Union territory Administration may determine, who shall have special knowledge or practical experience in the field of education, medicine, sports, culture or social services.

Duties of the State or Union territory Boards.

5. It shall be the duty of every State and Union territory Board to —

(*i*) recommend to National Board as regards —

(*a*) the ways to improve the health and proper maintenance of the children;

(*b*) the type of education which is to be imparted to each child, including technical education and vocational training;

(ii) provide education, uniform, transportation and meals, etc., free of cost to every child upto the twelfth standard;

(iii) select children for higher and technical education and to meet all their expenses;

(iv) select talented children in different sports and to train them;

(v) provide free hostel facilities; and

(vi) provide scholarship to deserving children.

Duty of Central Government to carry out the policy of National Board.

6. It shall be the duty of the Central Government to carry out the policy of the National Board into effect through release of funds and materials.

Constitution of Child Welfare Fund.

7. The Central Government shall constitute a fund to be called Child Welfare Fund.

Power to make rules.

8. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to generality of the foregoing power, such rules may provide for —

(*a*) the salary and other allowances payable to the members of the National Board, State Boards and Union territory Boards;

(*b*) the appointment of officers and staff for the Boards;

(*c*) any other matter which has to be, or may be, prescribed.

STATEMENT OF OBJECTS AND REASONS

Children who are the future of the country are under-nourished and education is not being imparted to them as per the requirement of the present times. The rich people can spend money for better education of their children. Whereas the large majority of the poor people cannot afford to utilise the natural potentialities of their children. Due to the lack of proper diet and health care, the children become victims of a number of incurable dieseases. Therefore, there is an urgent need to formulate a national policy for the development of children. In this connection it is proposed to establish a Child Welfare Board. The Child Welfare Boards will examine the capability and capacity of a child and make recommendations for the better development of the child. This will also result in lesser drop-outs from schools. Children will also get employment oriented education and talented children in sports will be trained so that they can perform better in the international arena of sports.

Hence this Bill.

NEW DELHI;
April 30, 1998.

T. SUBBARAMI REDDY.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the National Child Welfare Board. Clause 4 provides for the establishment of State or Union territory Child Welfare Boards. Clause 5 provides for provision of education, uniform etc. free of cost to all children upto 12th standard. It further provides for selection of children for higher and technical education and for meeting of all their expenditure by the State or Union territory Boards. Clause 6 provides that it shall be the duty of the Central Government to carry out the policy of National Board by means of funds and materials. Clause 7 provides for establishment of Children Welfare Fund. Clause 8 provides for payment of salary and other allowances to members of National Board, State and Union territory Boards. It also provides for appointment of officers and other staff for the Boards. The Bill, therefore, if enacted, is likely to involve a recurring expenditure of about rupees one crore per annum from the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of about rupees fifty lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules to carry out the purposes of this Bill. Sub-clause (2) of that clause enumerates the various matters in respect of which rules may be made. The matters in respect of which rules may be made are matters of procedure or detail only. The delegation of legislative powers is, thus, of a normal character.

BILL NO. 107 OF 1998

A Bill to provide for a comprehensive policy for the development of the youth in the country.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Youth Welfare Act, 1998.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) 'appropriate Government' means in the case of a State, the State Government and in the case of a Union territory, the Union Government;

(*b*) 'Youth' means all persons between twelve and thirty years of age; and

(*c*) 'Youth Organisation' means an organisation of youth which provides for universal membership, without any discrimination on the basis of race, religion, language, caste, creed or sex and the constitution of which provides for its democratic functioning in respective States or Union territories, as the case may be.

Compulsory and free educational facilities.

3. The appropriate Government shall provide to the youth—

(*a*) compulsory and free education including technical education;

(*b*) materials like books, stationery, uniform, etc. free of cost;

(*c*) free hostel facilities;

(*d*) scholarships to deserving students;

(*e*) free transport facilities;

(*f*) pocket allowance at the rate of rupees one hundred to rupees one hundred fifty per month according to the age of the youth, as may be prescribed; and

(*g*) free access to all libraries and technical institutions.

Sports facilities to the youth.

4. The appropriate Government shall provide,—

(*a*) training in sports to every youth and facilities for participation in sports activities both inside and outside the country;

(*b*) representation to youth organisations in sports associations; and

(*c*) for the welfare of youth, who represent the country in sports, throughout his life time.

Provision of nutritious meals in schools, etc.

5. The appropriate Government shall provide nutritious meals free of cost to all the students in schools, colleges, universities, hostels and technical institutions.

Medical care to the youth.

6. The appropriate Government shall provide medical and health care to the youth free of cost.

Training of the youth in trade vocation, etc.

7. The appropriate Government shall evolve a scheme under which youth shall be provided training in modern apprenticeship trades, vocations, etc. in factories and vocational institutions.

Appointment of expert Committees.

8. The appropriate Government shall appoint expert Committees in every district consisting of eminent educationists, psychologists to recommend the type of education or training in any vocation that is to be imparted to a youth of the district after he or she has passed the tenth class examination.

Military training to the youth.

9. The Central Government shall provide military training to all the able bodied youth and those who successfully complete the training shall be given preference in employment in defence services.

Provision of employment.

10. The appropriate Government shall provide employment to the youth after their education/training or unemployment allowance, as may be fixed, by the Central Government, in lieu thereof, till they are provided employment.

Power to make rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Even after four decades of independence, no clear-cut youth policy has been laid down in our country so far. The education should be the right of the youth and not a privilege of a few and employment should be guaranteed to them. The youth should be linked directly with the production process. The disparities between the rural and urban youth should be eliminated gradually. The youth today is also facing serious health problems, absolute inadequacy in sports and cultural facilities. The youth belonging to Scheduled Castes, Scheduled Tribes and other backward classes are still reeling under poverty. There is no proper planning for comprehensive development of the youth and proper utilisation of their energies and education. A comprehensive youth policy for their all round development is, therefore, absolutely necessary.

Hence this Bill.

NEW DELHI;
April 30, 1998.

T. SUBBARAMI REDDY

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. H-11021/1/98.YS.IV, dated 28 July, 1998 from Kumari Uma Bharati, Minister of State in the Ministry of Human Resource Development to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Youth Welfare Bill, 1998 by Dr. T. Subbarami Reddy, M.P., has been pleased to recommend the consideration of the Bill in Lok Sabha under article 117(3) of the Constitution.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall provide compulsory and free education and also supply materials like books, stationery, uniform, etc., free of cost and pocket allowance to all the youth. It also provides for free hostel and transport facilities and scholarships to youth. Clause 4 provides that the appropriate Government shall provide facilities to youth for their participation in sports activities. Clause 5 provides that the appropriate Government shall provide nutritious diet free of cost to all the students in schools, colleges, universities and hostels. Clause 6 provides for medical and health care to all the youth by the appropriate Government. Clause 7 provides that the appropriate Government shall evolve a scheme under which the youth will be given training in factories and vocational institutions. Clause 8 provides for appointment of expert Committees to recommend the type of education that is to be imparted to the youth. Clause 9 provides for military training to physically fit youth. Clause 10 provides that the appropriate Government shall be responsible for providing employment to all the youth or unemployment allowance, as may be prescribed, till they are provided with employment.

The Bill, if enacted, would involve expenditure from the Consolidated Fund of India in respect of the Union Territories. The State Government will incur the expenditure from their respective Consolidated Funds in respect of their States supplemented by assistance from the Central Government. An annual recurring expenditure of about rupees two hundred and fifty crore is likely to be incurred.

A non-recurring expenditure of about rupees four crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 11 OF 1999

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1999.

Insertion of new article 75A.

2. After article 75 of the Constitution, the following article shall be inserted, namely:—

Provision for care-taker Government.

"75A. (*1*) Notwithstanding anything contained in this Constitution, during the period from the date of announcement of general election to the House of the People or from the date of dissolution of the House of the People, till the date of constitution of new House of the People, there shall be a care-taker Government consisting of a Prime Minister and ten other Ministers, who shall not belong to any Political Party to aid and advise the President:

Provided that no person against whom any criminal or civil suit has been initiated or is pending in any court of law, shall be appointed as Prime Minister or other Ministers:

Provided further that the Prime Minister and other Ministers shall not contest ensuing elections to the House of the People.

(2) The Prime Minister shall be appointed by the President from amongst the former Judges of the Supreme Court.

(3) The Ministers shall be appointed by the President from amongst persons who, in the opinion of the President, possess administrative skills or are involved in social work.

(4) Such Government shall carry out the day to day affairs of the administration and shall not take any policy decision or major decision including making appointments of important positions under the Union or transfer of senior officials.".

Insertion of new article 164A.

3. After article 164 of the Constitution, the following article shall be inserted, namely:—

Provision for care-taker Government

"164A. (1) Notwithstanding anything contained in this Constitution, during the period from the date of announcement of general election to Legislative Assembly of a State, or from the date of dissolution of the Legislative Assembly of the State, till the date of constitution of new Legislative Assembly of the State, there shall be a care-taker Government of the State, consisting of a Chief Minister and ten other Ministers, who shall not belong to any political party to aid and advise the Governor:

Provided that no person against whom any criminal or civil suit has been initiated or is pending in any court of law, shall be appointed as Chief Minister or other Ministers:

Provided further that the Chief Minister and other Ministers shall not contest ensuing elections to the Legislative Assembly of the State.

(2) The Chief Minister shall be appointed by the Governor from amongst the former Judges of the High Court.

(3) The Ministers shall be appointed by the Governor from amongst persons who, in the opinion of the Governor possess administrative skills or are involved in social work.

(4) Such Government shall carry out the day to day affairs of the administration and shall not take any policy decision or major decision including making appointments of important positions under the State Government or transfer of senior officials in the State."

STATEMENT OF OBJECTS AND REASONS

In India, democracy is functioning for the last fifty years and there have been twelve general elections for the Lok Sabha so far. During these elections a lot of controversy arose over administrative interference particularly by ruling party during the elections. To check the administrative interference during the elections by the party in power, the Election Commission had proposed a model code of conduct for all the Governments in power. To some extent this code of conduct has helped in controlling the misuse of the Government machinery. But this model code of conduct has no legal validity. India being a vast country, it would not be possible to control misuse of Government machinery even after this code of conduct has been formulated by the Election Commission. It is necessary to evolve a permanent solution of all these maladies and to strengthen democratic process in the country. Therefore, it is now high time that the Constitution was amended for making provision of a care-taker Government to look after the day to day administration during the period from the date of announcement of general elections or from the date of dissolution of the House of the People till the date of constitution of new House of the People. In our neighbouring country Bangladesh, such experiments are being carried out successfully.

Similar provisions should also be made in case of State Assemblies. The Election Commission had also recommended that Chief Ministers should resign after the elections have been declared in the States.

The proposed care-taker Governments in the Centre and States have become necessary to have free and fair elections in the country.

Hence, the Bill.

NEW DELHI;
October 20, 1998

T. SUBBARAMI REDDY

BILL NO. 145 OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1998. Short title.

2. After article 9 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 9A.

"**9A.** Notwithstanding anything contained in article 9, any person who, or either of whose parents, was a citizen of India and who has acquired the citizenship of any foreign State, shall be deemed to be a citizen of India, in addition to being a citizen of foreign State, if he makes an application to a diplomatic or counsellor representative of India in that foreign State for registration as a citizen of India: Dual citizenship.

Provided that the children of any such person who has been registered as a citizen of India shall, in addition to their being a citizen of a foreign State, also be deemed as citizen of India.".

STATEMENT OF OBJECTS AND REASONS

A large number of Indian citizens living in foreign countries are taking keen interest in the affairs of India. They migrated to other countries for making their future prospects bright. Of them, many are doing good business in foreign countries. Many of the Indians went to the Gulf countries as skilled and un-skilled workers owing to the employment crisis in our country. All these Indian citizens living abroad are sending regular remittances to India which is one of the largest sources of Indian receipts.

There are about 18 million Non-Resident Indians (NRIs) around the world but about only 2.5 million are living in the affluent West. They want to play a global role that suits India. In the present global scenario, India needs the experience of NRIs to promote and strengthen its economy. The NRIs are emerging as an important source of capita to boost India's economy and their deposits account for about 23% of the country's foreign reserves. There has been a significant shift in the investments in India by foreign investors particularly NRIs. Under the revised external policy, the Government has recognised the NRIs as a potential source of capital formation. Therefore, there is a need to provide dual citizenship to those original Indians who left the country and opted for other countries for economic reasons. If such Indians are given dual citizenship, it will help in boosting exports and doubling of remittances making available a continuous inflow of valuable foreign investments. India should follow examples of countries like Japan and Israel which were helped by people of their own origin settled in foreign countries. Also, the grant of status of citizenship of India to such Non-Resident Indians, in addition to their being citizens of other countries will help them in overcoming the minor and irritating problems relating to income tax, buying and selling of property in India, etc. Since our country has already liberalised the economic policies and is urging the foreign investors to invest in India, it is safer, if we allow Non-Resident Indians to have dual citizenship, so that they can play a positive role in strengthening our economy by investing in our country.

Hence this Bill.

NEW DELHI;
November 6, 1998.

VAIKO

BILL No. 4 OF 1999

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fiftieth year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1999. Short title

2. In article 179 of the Constitution, in clause (c), the second proviso shall be omitted. Amendment of article 179.

STATEMENT OF OBJECTS AND REASONS

At present, whenever Assembly in a State is dissolved, the Speaker continues to hold office until immediately before the first meeting of the Assembly after the dissolution. Since he is elected as Speaker from amongst the members, his membership also goes consequent on dissolution of the House. There is, therefore, no justification for the Speaker to continue in his office. Since the Governor will appoint a *pro-tem* Speaker immediately after the new Assembly is constituted, the Speaker of the dissolved Assembly need not continue in office. The Speaker, all along has to maintain the dignity and decorum of the House by disassociating himself with any party and act impartially. It creates difficulty for him to actively involve himself in the party affairs and to contest election. Therefore, to facilitate his active participation in election campaigns of any political party, it is proposed to delete the second proviso of article 179 of the Constitution.

Hence this Bill.

NEW DELHI;
November 9, 1998.

K. C. KONDAIAH

BILL NO. 5 OF 1999

A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 1999. Short title.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in Part II— Amendment of the Schedule.

Assam, after entry 14, the following entries shall be inserted, namely:—

"15. Ahoms
16. Chutias
17. Koch-Rajbongshi
18. Moran-Motaks
19. Tea-Tribes.".

STATEMENT OF OBJECTS AND REASONS

The proposal for enlisting the Koch-Rajbongshi, the Ahoms, the Tea Tribes, the Chutias and the Moran-Motaks as Scheduled Tribes in relation to the State of Assam was referred to a Select Committee chaired by Shri Amar Roy Pradhan, M.P., in the Eleventh Lok Sabha. The Committee recommended that all these Communities be enlisted as Scheduled Tribes by amending the Constitution (Scheduled Tribes) Order, 1950.

The present Bill seeks to achieve the above objective.

NEW DELHI;
November 24, 1998.

BIJOY KRISHNA HANDIQUE

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to include the Koch-Rajbongshi, the Ahoms, the Tea Tribes, the Chutias, the Moran-Motaks of Assam in the Constitution (Scheduled Tribes) Order as Scheduled Tribes. This shall involve only a nominal recurring and non-recurring expenditure for the benefits to be provided to the eligible persons of these Tribes, under various existing schemes, but the expenditure likely to be required will not be large and no extra budgetary provision may be necessary for the Ministry of Social Welfare and Empowerment.

BILL NO. 12 OF 1999

A Bill further to amend the Requisitioning and Acquisition of Immovable Property Act, 1952.

BE it enacted by Parliament in the Fiftieth year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1999.

(*2*) It extends to the whole of India, except the State of Jammu and Kashmir.

Amendment of section 8.

2. In section 8 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (hereinafter referred to as the Principal Act), after sub-section (*3*), the following sub-sections shall be inserted, namely:— 30 of 1952.

"(*4*) In addition to the amount of compensation mentioned in sub-section (3) above, there shall be paid in every case a sum of thirty per centum of such compensation in consideration of the compulsory nature of acquisition.

(*5*) The provision of sub-section (4) shall be deemed to have come into force from the date of coming into force of the Act."

3. For section 9 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 9.

"9. (*1*) The amount of compensation payable under an award shall, subject to any rules made under this Act, be passed by the competent authority to the person or persons entitled thereto in such manner and within such time as may be specified in award: Payment of Compensation.

Provided that if the amount of compensation is not paid on the date when the requisitioned property is vested absolutely in the Central Government under sub-section (2) of section 7 of the Act, there shall be paid interest at the rate of nine per centum from the date of such vesting until it shall have been so paid:

Provided further that if such compensation or any part thereof is not paid or deposited within a period of one year from the date of vesting, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid before the date of such expiry.

(*2*) The provisions of this section shall be deemed to have come into force from the date of coming into force of the Act.".

STATEMENT OF OBJECTS AND REASONS

The Requisitioning and Acquisition of Immovable Property Act, 1952 (Act No. XXX of 1952) is also a potent tool in the hands of the State to acquire land, and is being resorted for acquiring the lands, which stand requisitioned in the past.

It is quite anomalous that the compensation, payable in respect of the lands acquired under the provisions of the Requisitioning and Acquisition of Immovable Property Act, 1952 is paid after decades. Still the compensation amount does not carry any interest thereon. Lack of an in-built statutory provision for payment of interest proves unjust and inequitous. The Supreme Court, in the absence of statutory provision in this regard, has also declined to award interest. As a matter of fact, if the State withholds the amount of compensation, it must pay interest thereon. There is no rationale to deny interest to an ex-landowner, who has been deprived of his property without payment of compensation in accordance with the scheme of the Act. Hence, section 9 of the present 1952 Act is proposed to be amended to make its provisions in consonance with the just and fair principles of legislation. The amendments proposed are akin to the section 34 of the Land Acquisition Act, 1894.

Similarly, there is no provision for payment of any amount as 'solatium' for the compulsory nature of acquisition. Such provision for solatium forms part of the Land Acquisition Act, 1894. It would, therefore, necessitate to provide for 'solatium' at parity with the said 1894 Act by contemplating payment of thirty per centum of compensation in addition to the compensation.

Hence the Bill.

BHAGWAN SHANKAR RAWAT

NEW DELHI;
December 18, 1998.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for payment of solatium in addition to the compensation in consideration of compulsory nature of acquisition of land. Clause 3 provides of payment of interest in case of delay in payment of compensation. These provisions when brought into operation are likely to involve some expenditure from the Consolidated Fund of India but it is not possible at this stage to calculate the additional burden on this account. However, a recurring expenditure of about rupees five lakh is likely to be incurred per annum from the Fund. A non-recurring expenditure rupees twenty five crore is also likely to be involved on this account.

BILL No. 10 OF 1999

A Bill further to amend Land Acquisition Act, 1894.

WHEREAS it is expedient to amend the Land Acquisition Act, 1894, in its application, to the State of Uttar Pradesh for removal of inequalities, anomalies and discrimination, in the manner hereinafter appearing:

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Land Acquisition (Amendment) Act, 1999.

(*2*) It extends to the whole of the State of Uttar Pradesh.

(*3*) It shall be deemed to have come into force on 24th day of September, 1984.

Insertion of new section 54-A.

2. After section 54 of the Land Acquisition Act, 1894, the following section shall be added, namely:— 1 of 1894.

Extention of the provisions of Act No. 68 of 1984 to certain acquisitions in the State of Uttar Pradesh.

"54A. (*1*) The provisions of the Land Acquisition (Amendment) Act, 1984 (Act No. 68 of 1984) shall apply, and shall be deemed to have applied, also to, and in relation to the acquisitions of land by the State of Uttar Pradesh for the Uttar Pradesh Avas Evam Vikas Parishad constituted under section 3 of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965. U.P. Act No. 1 of 1966.

(2) The provisions of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965 and the Schedule thereto, to the extent of their repugnancy to the provisions of the Land Acquisition (Amendment) Act, 1984, shall stand amended, and shall be deemed to have been amended; and

(3) The provisions of this section shall always be deemed to have been in force from the 24th day of September 1984, notwithstanding any judgement, decree or order of any Court or the Tribunal to the contrary.

STATEMENT OF OBJECTS AND REASONS

The Uttar Pradesh Legislature enacted the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965 (UP Act No. 1 of 1966), whereby the provision of the Land Acquisition Act, 1894 was incorporated with certain modifications. The said 1965 Act is used for acquiring lands on vast scale throughout the State.

The Supreme Court, of late, has ruled that no amendments of the Land Acquisition Act, 1894, including the amendments made by the Central Act No. 68 of 1984, made subsequent to the enactment of 1965 Act, would apply to an acquisition under the provisions of the 1965 Act. The legal positions, as highlighted by their Lordships of the Apex Court, has focussed the legislative anomalies and deficiencies.

In particular, it deserves to be recalled that several significant and beneficial amendments were made by the Central Act No. 68 of 1984 in the Land Acquisition Act, 1894. But, such amendments are not applicable to the acquisitions made under the State Act of 1965. To illustrate, while section 11-A enacted by the amending Act of 1984 enjoins two years time period for making award, there is no time limit at all in the 1965 Act. It leads to discontentment amongst the farmers of the State, whose lands are acquired under the 1965 Act. Precisely speaking, in the State of Uttar Pradesh, there exists two sets of rules, namely,—one contained in the 1894 Act as amended from time to time and second as contained in 1965 Act. To deprive the landowner of the various benefits of the 1984 Act is not based on sound legislative policy. Hence, the anomalies merit to be rectified by bringing the acquisitions under the 1965 Act by applying specifically the provisions of the Act No. 68 of 1984.

It cannot be gainsaid that it is well within the domain of the Parliament to amend the State Law relating 'to acquisition of land, as the matter, namely, acquisition and requisitioning of property' is enumerated at serial No. 42 of the List III — Concurrent List of the Seventh Schedule of the Constitution.

It would be just fair and reasonable that to ensure equality-based-treatment to the farmers, the U.P. Act of 1965 be suitably amended.

Hence the Bill.

NEW DELHI;
December 18, 1998.

BHAGWAN SHANKAR RAWAT

BILL NO. 9 OF 1999

A Bill to provide for establishment of Tribunals for enforcement of fundamental rights and for matters connected therewith.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Fundamental Rights Enforcement Tribunals Act, 1999.

(*2*) It extends to the whole of India, except the State of Jammu and Kashmir.

(*3*) The provisions of this Act, shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "application" means an application made under section 5;

(*b*) "appointed day" means the date with effect from which a Tribunal is established by notification, under section 3;

(*c*) "Fundamental Rights" means the rights conferred on citizen by part III of the Constitution;

(*d*) "High Court" in relation to any Tribunal means the High Court within whose territorial jurisdiction the Tribunal referred to in clause (*i*) is situated;

(*e*) "notification" means a notification published in the Official Gazette;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "rules" means rules made under this Act;

(*h*) "Supreme Court" means the Supreme Court of India; and

(*i*) "Tribunal" means the Fundamental Rights Enforcement Tribunals, established under section 3 of this Act.

Establishment of Tribunals.

3. (*1*) For the purpose of this Act, the Central Government shall, by notification in the Official Gazette, establish a Tribunal to be known as Fundamental Rights Enforcement Tribunal, in each district of the country, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

(2) Every notification under sub-section (*1*) shall also provide the ratio in which the expenditure in connection with administration of Tribunal shall be borne by each State Government and Central Government and all other incidental and consequential provisions not inconsistent with this Act, as may be deemed necessary or expedient.

Composition of Tribunals.

4. (*1*) Each Tribunal shall consist the following, namely:—

(*i*) a Chairman;

(*ii*) a Vice-Chairman; and

(*iii*) a member.

(*2*) The Chairman of the Tribunal shall be a sitting Judge not below the rank of the District Judge and the Vice-Chairman and the member shall be of the rank of additional District Judge.

(*3*) The Chairman, the Vice-Chairman and the member of the Tribunal shall be appointed by the High Court.

Application for enforcement of fundamental rights.

5. Any person, on payment of such fee, as may be prescribed, file an application for enforcement of any of the rights enshrined in Part III of the Constitution, and every such application shall be duly supported by a properly sworn affidavit and accompanied by the true copies of the documents, which the applicant intends to rely upon:

Provided that no application shall lie if the application involves a substantial question of law as to the interpretation of the Constitution or the *vires* of a statute or part thereof or a rule or regulation under the statute:

Provided further that the Tribunal shall have no power to declare the provisions of the Constitution or any statute or Rules made thereunder as *ultra vires* on any ground whatsoever:

Provided also that no application shall lie if a period of one year or more has expired since the alleged date of infringement or abridgement of the rights enshrined in Part III of the Constitution, but the Tribunal may entertain an application after the expiry of one year, if it is satisfied that the applicant was prevented by sufficient cause from filing the application and record reasons in writing therefor.

Procedure on receipt of an application.

6. On receipt of an application under section 5, the Tribunal may either reject the application summarily without hearing the opposite parties or issue notice to the opposite parties, and after providing adequate opportunity of hearing, pass such order as it may deem fit:

Provided that the Tribunal shall have no right to pass any interim order without issuing notice to the parties concerned and providing opportunity of hearing to the opposite parties.

Application of Indian Evidence Act, 1872.

7. A Tribunal may receive as evidence any report, statement, document, information or matter that may, in its opinion, assist it to deal effectively with a dispute, whether or not the same should be otherwise relevant or admissible under the Indian Evidence Act, 1872.

1 of 1872.

Record of oral evidence.

8. In proceedings before a Tribunal, it shall not be necessary to record the evidence of witnesses at length, but the Tribunal, as the examination of each witness proceeds, shall record or cause to be recorded a memorandum of the substance of what the witness deposes and such memorandum shall be signed by the witness and the Chairman of the Tribunal and shall form part of the record.

Evidence on affidavit.

9. (*1*) The evidence of any person may be permitted by the Tribunal to be given by affidavit and may, subject to all just exceptions, be read in evidence by the Tribunal.

(*2*) The Tribunal may, if it thinks fit or on the application of any of the parties to the proceedings, summon and examine any such person as to the facts contained in his affidavit.

Judgement.

10. Every Judgement of the Tribunal shall contain a concise statement of the case, the point for determination, the decision thereon and the reasons for such decision.

Execution of orders.

11. (*1*) An order, passed by the Tribunal, shall have the same force and effect as a decree or order of a principal Civil Court of original jurisdiction, and shall be executed in the same manner as is prescribed in the Code of Civil Procedure, 1908 for execution of decrees.

5 of 1908.

(*2*) An order may be executed either by the concerned Tribunal which passed it or by any other Tribunal or the Civil Court of original Jurisdiction.

Appeal.

12. (*1*) Any person aggrieved by an order made by the Tribunal, not being an interlocutory order, may within ninety days of the date of such order, prefer an appeal to the High Court both on facts and law:

Provided that the High Court may entertain the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) On receipt of an appeal under sub-section (*1*), the High Court may either summarily reject the appeal or may hear it after giving the parties an opportunity of being heard and pass such orders thereon, as it deems fit, as expeditiously as possible.

(*3*) Every order passed by the High Court under this section shall be final.

Revision.

13. The High Court may, on its own motion or on an application moved, call for and examine the records of any order passed or proceedings taken under the provisions of this Act and against which no appeal has been preferred for the purpose of satisfying itself as to the legality of propriety of such order or as to the regularity of such procedure and pass such order with respect thereto as it may think fit:

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter.

Power of High Court to transfer cases.

14. (*1*) The High Court may, either *suo motu* or on an application made in this behalf by an aggrieved party, at any stage, after making a due hearing and if it is satisfied that an order under this section is expedient for the ends of justice, direct that any case or proceedings be transferred to another Tribunal.

(*2*) Every application under this section shall be made by a motion which shall be supported by an affidavit.

(*3*) The Tribunal to which such case of proceeding is transferred shall, subject to any special directions in the order of transfer, either re-hear it or proceed from the stage at which it was transferred to it.

(*4*) If the application moved under this section is dismissed by the High Court and it is of the opinion that the application was trivolous or vexatious, it may order the applicant to pay by way of compensation an amount not exceeding ten thousand rupees, as it considers appropriate in the circumstances of the case.

Transfer of pending cases.

15. A writ petition for enforcement of the rights pending before the Supreme Court or the High Court as the case may be, on the date of the constitution of the Tribunal, may be transferred to a Tribunal either *suo motu* or on an application to this effect, by any of the parties to such petition, and on such transfer, the Tribunal shall proceed with such case from the stage which was reached before it was so transferred.

Transfer of certain cases to High Court.

16. (*1*) If the High Court is satisfied that a case pending before the Tribunal involves a substantial question of law as to the interpretation of the Constitution of India or the *vires* of a statute or a part thereof or a rule or regulation made under the statute, which has not already been settled by the Supreme Court or the High Court, and the determination of which is necessary for the disposal of that case, it shall withdraw the case and may—

(*a*) either dispose of the case itself; or

(*b*) determine the said question of law and return the case to the Tribunal from which the case has been so withdrawn together with a copy of its judgement on such question, and the said Tribunal shall on receipt thereof proceed to dispose of the case in conformity with such judgement.

(2) the provisions of sub-section (*1*) shall *mutatis mutandis* apply to the Tribunal, which shall transfer the case to the High Court, and thereafter the High Court, if satisfied, may proceed with the case in the manner mentioned in clauses (*a*) and (*b*) of sub-section (*1*):

Provided that nothing shall preclude the High Court from dismissing the case, if it is satisfied that the case in question is frivolous and does not require consideration of any legal or constitutional issue involved therein.

Proceedings before a Tribunal to be judicial proceedings.

17. All proceedings before a Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. 45 of 1860.

Members and staff of Tribunal are to be public servants.

18. The Chairman, Vice-Chairman and other members and the officers and other employees of a Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

19. No suit, prosecution or other legal proceedings shall lie against the Central or State Government or against the Chairman, Vice-Chairman or member of any Tribunal or any other person so authorised by such Chairman, Vice-Chairman or other member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Act not to have overriding effect.

20. The provisions of this Act shall not affect any provision of the Constitution for enforcement of the rights conferred and the rights given under this Act shall not be in derogation of the rights given by the Constitution.

Power to remove difficulties.

21. (*1*) If any difficulty arises in giving effect to the provisions of this act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with provisions of this Act, as appear to it to be necessary or expedient for removing such difficulty.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before each House of Parliament.

Power of the Central Government to make rules.

22. (*1*) The Central Government may, by notification in the Official Gazette make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following, namely:—

(*a*) the form in which an application may be made under section 5, the documents and other evidence by which such application shall be accompanied and

the fees payable in respect of the filing of such application or for the service or execution of processes; and

(*b*) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

Laying of rules.

23. Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and *i.e.* before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

OBJECTS AND REASONS

The founding Fathers of our Constitution contemplated various rights, as enshrined in its Part III, and designated them 'fundamental rights' to give them predominant character by putting them on highest pedastal of various kinds of rights. These rights also comprise therein the right to move the Supreme Court by appropriate proceedings for their enforcement *vide* article 32.

Clause (*3*) of article 32 of the constitution empowers the Parliament to make law to empower any other Court within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court. Apart from this, the High Courts, *vide* article 226 of the Constitution, have also been vested with the jurisdiction to issue appropriate writs for the enforcement of any of the rights conferred by Part III.

At present, the fundamental rights can, thus, be enforced only either by the Supreme Court or by the territorial High Court. No enactment has been made by the Parliament so far in exercise of its legislative competence under article 32 (3) to empower any other Court for the purpose.

It has been experienced that the Supreme Court, ordinarily, relegates the person aggrieved to petition to the High Court for enforcement of his fundamental rights. The High Courts are over-burdened with heavy work-load and backlogs. This delays the enforcement of the rights, though they require to be expeditiously enforced. The principal seat or the benches of the High Court, often, also happen to be at a distant place from the residence of the person concerned. Furthermore, the prohibitive cost deters a person aggrieved to approach the High Court.

It, hence, calls for setting up of an alternate mechanism to make available speedy and less expensive remedy for enforcement of fundamental rights within the frame work of the Constitution. This requirement is further re-inforced by article 39A of the Constitution, which enjoins the State to secure the operation of legal system which promotes justice and to ensure that opportunities for securing justice are not denied by reason of economic or other disabilities.

In the above background, it becomes a pressing need of the hour that the Parliament enacts a law, for the needful in exercise of its authority under article 32 (3) with certain in-built safeguards, procedural and substantive, and for that purpose, the present Bill envisages constitution of Tribunals.

The Tribunals, as envisaged in this Bill, on becoming functional, would go a long way to reduce the increasing backlogs in the High Court, and would make the fundamental rights a reality to even the poorest man, the dreams, our founding fathers cherished.

Hence the Bill.

NEW DELHI;
December 18, 1998.

BHAGWAN SHANKAR RAWAT

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Fundamental Rights Enforcement Tribunals. Therefore, the officers and staff will be required to be appointed. It will involve expenditure from the Consolidated Fund of India. A recurring expenditure of rupees ten crore shall be required in respect of salaries and allowances of the officers and staff.

A non-recurring expenditure to the tune of rupees five crore will also be incurred for providing infrastructural facilities.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 22 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The rules to be made relate to matter of detail only and as such the delegation of legislative powers are of normal character.

MGIP(PLU)MRND—4998GI—4-5-1999.